see 1 GREENLEAF, EVIDENCE, 16 ed., § 162 b. A few states, notably New York, admit these more articulate expressions of present pain only if made to a physician during consultation. *Kennedy* v. *Rochester City & B. R. R. Co.*, 130 N. Y. 654, 29 N. E. 141; *Lake St. Elevated Ry. Co.* v. *Shaw*, 203 Ill. 39, 67 N. E. 374. And the consultation must intend medical treatment. *Davidson* v. *Cornell*, 132 N. Y. 228, 30 N. E. 573. This New York limitation, which developed only after the Code gave parties the right themselves to testify regarding their suffering, is condemned as illogical. See 3 WIGMORE, EVIDENCE, § 1719. A more flexible rule is required, yet one not without some guarantees of trustworthiness. Kansas admits statements of present pain only when validated by other evidence concerning the circumstances under which they were uttered. *St. Louis and Santa Fé R. R. Co.* v. *Chaney*, 77 Kan. 276, 94 Pac. 126. Some such safeguard is essential. As the meagre report of the principal case affords no indication that any guarantee was exacted before admitting the evidence, the decision is possibly wrong.

GIFTS — GIFTS *INTER VIVOS* — OWNERSHIP OF WEDDING GIFTS. — The plaintiff received money as a wedding gift from her mother to purchase furniture. After the furniture had been bought and used in the home, plaintiff's husband claimed an interest in it as joint owner. *Held*, that he had no such interest. *Wainess* v. *Jenkins*, 180 N. Y. Supp. 627.

Before the Married Woman's Property Acts, the property in gifts to the wife usually vested in the husband by reason of his marital rights. *Tllexan* v. *Wilson*, 43 Me. 186. And it was, therefore, not always necessary to determine the precise donee. Under modern statutes, with the possibility of separate ownership in the wife, it is important to distinguish the real donee of wedding gifts. As in the case of other gifts, the problem is to discover the intention of the donor, which, in the absence of express words, is to be inferred from the nature of the article, the relation between the donor and donee, and like circumstances. This reasoning, with the finding of title in the wife, has been used in cases of a devise of a separate estate. See *Miller* v. *Miller's Adm'r*, 92 Va. 510, 512, 23 S. E. 891, 892; *Duke's Heirs* v. *Duke's Devisees*, 81 Ky. 308, 311. And a similar result has been reached, as in the principal case, in gifts of personalty. *In re Grant*, 2 Story (U. S. C. C.), 312; *Graham* v. *Londonderry*, 3 Atk. 393; *Lyon* v. *Lyon*, 24 Ky. Law Rep. 2100, 72 S. W. 1102; *Ilgenfritz* v. *Ilgenfritz*, 49 Mo. App. 127.

HOMICIDE — INTENT — EFFECT OF INTOXICATION ON *MENS REA*. — Respondent ravished a girl of thirteen. To stop her screams he placed his hand over her mouth and pressed his thumb on her throat so that she died from suffocation. On an indictment for murder respondent pleaded drunkenness. The trial court directed the jury that this defense could prevail only if the accused, because of his drunkenness did not know what he was doing or that it was wrong. The jury found a verdict of murder. The Court of Criminal Appeal held that there had been a misdirection, resting on *Rex* v. *Meade*, [1909] 1 K. B. 895. *Held*, that the conviction be restored. *Director of Pub. Prosec.* v. *Beard*, [1920] A. C. 479.

For a discussion of the principles involved in this case, see NOTES, p. 78, *supra*.

HUSBAND AND WIFE. — PRESUMPTION OF COERCION — EFFECT OF MARRIED WOMAN'S ACT. — Defendant, a married woman, was convicted of selling intoxicating liquors without a license. The trial court had refused to instruct the jury that there was a presumption that a married woman, who committed a crime in the presence of her husband, acted under his coercion, and should not be found guilty unless this presumption was overcome by the evidence.

Held, that this instruction was correctly refused. *King* v. *City of Owensboro*, 218 S. W. 297 (Ky.).

At common law a wife committing a crime in the presence of her husband was presumed to have acted under his coercion. *Com.* v. *Eagan*, 103 Mass. 71; *State* v. *Martini*, 80 N. J. L. 685, 78 Atl. 12. This presumption must have been based on the complete control once exercised by the husband over his wife's person and property. See 4 BL. COMM. 28; *Morton* v. *State*, 141 Tenn. 357, 360, 209 S. W. 644, 645. But a wife cannot now be chastised or imprisoned by her spouse. *The Queen* v. *Jackson*, [1891] 1 Q. B. 671. The Married Woman's Act of Kentucky completely frees her property. 1915 CARROLL'S KENTUCKY STATUTES, c. 66, §§ 2127, 2128. This act, with similar legislation in nearly all jurisdictions, effectively brings to an end the husband's control. See *Martin* v. *Robson*, 65 Ill. 129, 132, 139; *State* v. *Hendricks*, 32 Kan. 559, 563, 4 Pac. 1050, 1053. With this gone, the presumption of coercion, based on it, should go also. The principal case is undoubtedly judge-made law, but the conclusion seems desirable. The same result has been reached by statute. 1919 CAN. CRIM. CODE, 21; N. Y. PENAL CODE, § 1092.

JURISDICTION — VENUE — ACTION FOR CONVERSION OF ORE TAKEN FROM LAND IN ANOTHER STATE. — The plaintiff sued in Maine for the conversion of ore taken from his land in Arizona. The defendant pleaded to the jurisdiction that the only ore taken was from land *bona fide* claimed by him. *Held*, that the court had jurisdiction. *Arizona Commercial Mining Co.* v. *Iron Cap Copper Co.*, 110 Atl. 429 (Me.).

The plaintiff sued in Massachusetts for the conversion of ore taken from his land in Arizona. The defendant pleaded to the jurisdiction that the only ore taken was from land *bona fide* claimed by him. *Held*, that the court did not have jurisdiction. *Arizona Commercial Mining Co.* v. *Iron Cap Copper Co.*, 128 N. E. 4 (Mass.).

The doctrine that actions for injuries to land are local is almost universally accepted, unless abolished by statute. *British South Africa Co.* v. *Companhia de Mocambique*, [1893] A. C. 602. The principal exception is that where the trespass is accompanied by a conversion of trees, crops, or soil taken from the land, the plaintiff may waive the trespass and sue for the conversion in a transitory action. *Stone* v. *United States*, 167 U. S. 178; *Stuart* v. *Baldwin*, 41 U. C. Q. B. 446. The Massachusetts court profess to agree with all the cases sustaining this exception, and attempt to distinguish them on the ground that in the principal case the defendant *bona fide* claimed title. Since the distinction between a *bona fide* claim and any claim not sham is impracticable, this argument can mean only that the exception is to be entirely abolished. The whole doctrine of local actions is a technical one and does little except to give rise to cases where there is a right without a remedy. See *Livingston* v. *Jefferson*, 1 Brock. (U. S.) 203, 208, 15 Fed. Cas. 660, 664. There seems every reason therefore not to abrogate its widest exception, and the Massachusetts decision cannot be regarded as either wise or sound.

LIS PENDENS — APPLICATION TO VENDOR'S LIEN SECURING NEGOTIABLE NOTE. — Certain land was conveyed to the defendant by one who had obtained a conveyance from the original owner by fraud. In payment, defendant signed negotiable notes secured by a vendor's lien on the land. The original owner brought action to recover the land, and filed notice of *lis pendens*. While this suit was still pending and before maturity of the notes, plaintiff purchased the notes for value and without actual notice of the suit, and sued to foreclose on the lien securing them. *Held*, that he is not chargeable with notice of the suit. *Pope* v. *Beauchamp et al.*, 219 S. W. 447 (Tex.).

Courts are more and more recognizing that incidental provisions to negotiable